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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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DATE: **JAN 18 2012**

OFFICE: TEXAS SERVICE CENTER

IN RE:

Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. At the time she filed the petition, the petitioner stated that she sought employment as an international broadcaster with Voice of America (VOA), an international broadcasting service established and funded by the United States government. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a brief from counsel and copies of previously submitted exhibits.

Section 203(b) of the Act states, in pertinent part:

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –

(A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of Job Offer –

(i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term “national interest.” Additionally, Congress did not provide a specific definition of “in the national interest.” The Committee on the Judiciary merely noted in its report to the Senate that the committee had “focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . .” S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

The Service [now U.S. Citizenship and Immigration Services (USCIS)] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation, 22 I&N Dec. 215 (Act. Assoc. Comm'r 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, the petitioner must show that the alien seeks employment in an area of substantial intrinsic merit. Next, the petitioner must show that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

While the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term "prospective" is used here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

The AAO also notes that the regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140 petition on August 3, 2007. In an accompanying statement, the petitioner discussed the intrinsic merit and national scope of reaching out to Mandarin speakers, "the largest ethnic population in the world," through VOA's Mandarin service. The director did not contest the intrinsic merit or national scope of the occupation, and therefore the AAO does not need to discuss these elements in detail.

With respect to her own work in the occupation, the petitioner stated:

With two master degrees majored [*sic*] in public communication and one bachelor degree majored in journalism, I have established outstanding academic records that can rarely be matched by U.S. journalists with minimum qualifications. . . . I have also received systematic academic training regarding [the] public communication system in China. These diverse academic backgrounds have given me unambiguous leverage in the proposed employment, because China is the primarily targeted region of the proposed employment at VOA.

. . . [My] diverse academic experiences also greatly enhance my abilities to gather region-specific information, to investigate news developments, to conduct direct interviews and to evaluate the significance of various news leads. These unique skills are typical[ly] not available to an [*sic*] United States journalist with minimum qualification for this job.

More importantly, these diverse academic backgrounds provide me with unique perspectives in analyzing background information related to stories and enable me to provide complete and accurate information to our targeted foreign listeners. The international correspondent is a uniquely dynamic occupation, which demands thorough understanding [of] the social and cultural contexts of [the] targeted audience. Because VOA's [Mandarin] listener populations are primarily residences in China and other Asian regions, my previous backgrounds in China will be a great asset to its operation. Perceivably, my ability to serve the national interest is of substantially greater extent than the majority of my colleagues.

Although a few U.S. journalists may have comparable lingual skill in Chinese . . . , they will be very unlikely to have similar backgrounds, skills and perspectives as I do. . . .

I also made significant achievements as a professional journalist. . . . I was employed with Southern Weekend, the largest and the most influential weekly newspaper in China. . . . I received widely [*sic*] recognition from both my readers and my colleagues. . . .

I had also worked with the Public Affair[s] Office of VOA. During this period, I have planned and designed the [M]andarin version of the VOA's Studio Tour program [on] my own. . . . In terms of editorial skills, this project is extremely challenging because it requires the correspondent to be intimately familiar with both American and Chinese culture, in addition to excellent bi-lingual capabilities. By virtue of my contribution, the [M]andarin project has become so successful that it is now the most popular visitor's program at VOA's headquarter[s] in Washington DC. . . .

In light of all my accomplishments and credentials, it is fair to conclude that few U.S. international correspondent[s] with minimum job qualifications would make

comparable contribution[s] to our national interest as I do. In fact, it would be contrary to the national interest to potentially deprive VOA of my continuing services by making available to U.S. workers the proposed position. Thus, there are sufficient grounds to waiver *[sic]* the labor certification process.

The petitioner's initial filing included background materials about VOA, in both English and Chinese. These submissions make it clear that the petitioner based her waiver claim not on the overall merits of international broadcast work, but on working for VOA in particular.

The petitioner entered the United States in 2003, at the age of 21, to study at Ohio University. After earning a master's degree in international affairs there in 2005, she entered Georgetown University where she received a master's degree in telecommunications policy in May 2007, two months before she filed the present petition on her own behalf. Thus, at the time of filing, the beneficiary had just completed her graduate studies and was, in fact, still classified as an F-1 nonimmigrant student. The record indicates that most of the petitioner's broadcasting experience, as of 2007, consisted of internships in conjunction with her studies.

Several witness letters accompanied the petition. [REDACTED] tour manager, reflected the petition's specific emphasis on [REDACTED] stating:

The geopolitical influence of [REDACTED] cannot be overemphasized. Being the oldest and the largest U.S. government-sponsored international broadcaster, [REDACTED] delivers news reports to a weekly worldwide audience of 115 million people. Among 48 languages used at [REDACTED] distinct *[sic]* itself with 84 hours of radio airtime and 10 hours of TV programming on a weekly basis, reaching millions of people throughout China and elsewhere in Asia. Through radio, television, and the Internet, our Mandarin broadcasting has been served *[sic]* as an important vehicle in promoting U.S. government's domestic and international agenda.

Relating to the petitioner's work at [REDACTED] did not discuss the petitioner's skills or achievements as a broadcaster, instead discussing her earlier work as a public relations intern:

In my entire career, I have rarely seen any colleague like [the petitioner], who has demonstrated such impressive progress in the early age of her career. In 2005, [the petitioner] joined our office as an intern at a critical juncture, when our Mandarin tour program was struggling to take off. Designed to represent a half-century's journey at VOA, this program not only demands superior organizational skills, but also presents a unique challenge to our correspondents in terms of editorial techniques.

. . . [T]he [REDACTED] is a natural extension of VOA's worldwide outreach. The largest share of our international visitors comes from China, the Mandarin tour service at the Office of Public Affairs has long been called upon by our audiences. . . .

[The petitioner] has been instrumental in versioning [sic] and realizing [redacted] Tour program in Mandarin. Starting from scratch, she was in charge of the project's entire planning and management process.

The same witness stated "the number of our visitors from China has gone up over 60%," but did not state the actual number of visitors. Without such figures, it is difficult to determine how significant a role the studio tour plays in [redacted]'s overall mission.

[redacted], director of [redacted] credited the petitioner with helping to create "a superb Chinese-language version of our Studio Tour." Like the previous witness, [redacted] acknowledged, but did not describe, the petitioner's subsequent position as an international broadcaster. [redacted] briefly acknowledged that the petitioner "returned to the Voice of America to work in [redacted]" but said nothing more about her work there.

The only witness at [redacted] to discuss the petitioner's international broadcasting work in any detail was producer and senior correspondent [redacted], who "worked closely with [the petitioner] in 2005 during her internship at [redacted] (The petitioner's own *curriculum vitae* does not mention any 2005 internship at [redacted] [redacted] called the petitioner "an indispensable part of our team [who] has made [an] influential contribution to our broadcasting. Her name comes up frequently as the person who has made the most significant breakthrough in recent time, advancing our program quality." The letter contains no other details about the nature of the petitioner's "influential contribution" or "breakthrough."

The remaining witnesses commented on the petitioner's earlier efforts. [redacted], president of Ohio University, stated that the petitioner "has distinguished herself as a very bright, creative and diligent person who has developed into a talented professional in the area of communications and information policy."

[redacted], stated:

I first came to know [the petitioner] in 2002 when she was working as a full-time reporter at Southern Weekend, where I was working as the Director of the Editorial Sections. As her supervisor, I was impressed by her professionalism and work ethics as a journalist. It is my observation that [the petitioner] is an excellent journalist and has tremendous potential in the field of international journalism.

My organization, Southern Weekend, is the most influential weekly newspaper in China, with the largest circulations and reader population in the region. We are proud to have the most talented reporters from all over the country. In this competitive environment, [the petitioner] stood out with her exceptional dedication and devotion to this profession. When [the petitioner] first came to our office, she worked as a junior reporter, responsible for collecting news leads and conducting field interview[s]. Soon after, she [was] highly recognized for her vigorous and prolific writing among her colleagues. While some young journalists may have distinguished

academic success like [the petitioner], few have achieved comparable editorial skills and proficiency. I consider [the petitioner] to be one of the most responsible and competent news reporters of our organization.

[redacted] praised the petitioner's "extreme courage" in pursuing a story on food safety even after "a high-ranking government official threatened to 'interfere' with 'severe consequence' if [the petitioner] should decide to publish the story. . . . Now working at [redacted], [the petitioner] continues to advocate freedom and democracy as an international broadcaster."

On April 8, 2009, the director issued a notice of intent to deny the petition, stating that the petitioner had not established the influence of her work. The director erroneously referred to the petitioner's occupation as bridge construction engineering.

In response, counsel asserted that the petitioner "is a gifted Broadcast News Analyst" with "an impressive background in communications and broadcast journalism." Counsel repeatedly referred to the petitioner's work at [redacted] in the past tense, indicating that the petitioner had left [redacted] by mid-2009. Nevertheless, when discussing the scope and significance of the petitioner's intended future work, counsel discussed [redacted] at length, and stated that the national interest waiver would spare [redacted] the cumbersome labor certification process.

The petitioner submitted new letters, some of which simply repeat prior submissions. A new letter from [redacted] dated April 30, 2009, closely matches that witness's earlier letter of July 25, 2007, with one change. The 2007 version of the letter included a paragraph indicating that the petitioner is "[n]ow working as an International Broadcaster at [redacted]." The 2009 letter omitted this language, consistent with the conclusion that the petitioner had left [redacted] by then. Otherwise, the letter is identical to its 2007 counterpart, and thus requires no further discussion. Similarly, an April 29, 2009 letter from [redacted] is almost identical to the same witness's earlier letter, dated July 23, 2007, with occasional, unimportant variations in wording.

[redacted], China correspondent for "Asia Calling" in Indonesia (and a graduate student at Ohio University in 2003-2005 while the petitioner was also studying there), stated that the petitioner gave her "a grasp on the nature of journalism works in China." [redacted] asserted: "I can see from our discussions that [the petitioner] has a deep understanding of domestic and foreign affairs of both China and the U.S. This understanding is complementing her language skills in producing reports that benefit the American public to see the changing world." [redacted] offered no discussion of the petitioner's work as a journalist or news analyst, instead vaguely praising the petitioner's cultural perspective.

[redacted] stated:

I was impressed by [the petitioner's] excellent work in covering political issues in Washington DC. In 2007, the former [redacted] awarded a medal to [redacted] the spirit [*sic*] leader of Tibet. Due to the sensitive political relationship between China and Tibet, any news of the topic is strictly censored by the Chinese

government and it possibly can even evoke Chinese people's protest. At that time, [the petitioner] was serving [redacted] as a news reporter. [The petitioner] successfully interviewed people from various sides and independently wrote the story in a short time. It was published by [redacted] on its website the same day, and later cited by many bloggers and independent news websites. Her story provided audience [sic] with opinions from various angles and was very balanced. As an experienced reporter, I was very impressed by her capability in dealing with sensitive political topics within a few hours and her elegance in facing activists from different religions and cultural backgrounds.

The next witness, [redacted] an attorney at the Federal Trade Commission, stated:

As an employee of the United States government for the past 14 years, I share the same goals and aspirations as [the petitioner] – that is, to serve the U.S. government and public interest. As a second generation Chinese American, I also share and can appreciate [the petitioner's] unique skills and talents in reaching out to the Chinese American community here in the United States, as well as in communicating the cultural values of Americans to people in China and the rest of the world. My own parents immigrated from China to the United States, and have long understood the importance of Voice of America, particularly in its radio broadcasting to countries all over the world, and the enormous impact it has had on the lives of ordinary Chinese living in China.

I first met [the petitioner] at a language study center here in Washington D.C., where I was looking for a Chinese language tutor for my two teenage children. I was immediately struck by her openness and energy, and her desire to reach out to the Chinese American community. [The petitioner] at first volunteered to assist me in finding a Chinese language teacher for my children by reaching out to her contacts in the Washington, D.C. community. She also volunteered to devote time from her own busy schedule, working at the Voice of America, to personally teach Chinese to my children. She has since become a close family friend.

[redacted] praised the petitioner's journalistic work, but she did not claim any training or expertise in broadcast journalism. [redacted] added that the petitioner "also volunteered at the D.C. Mayor's office every year to explain updated health and safety policies to senior Chinese American citizens in the community, and has provided them translation services as well." Volunteer work of this kind is admirable, but its impact is local rather than national. Also, the work is not occupational in nature and is, therefore, not a strong basis for an employment-based immigrant classification.

[redacted], a broadcast technician at [redacted], stated:

I have rarely seen anyone in [redacted] who is as much of a consummate professional in a wide variety of roles; broadcaster, interviewer, translator, editor, producer, and director. She seems to have a real gift for performing in each of these

roles with a spirit of cooperation that makes others want to work with her. Her technical abilities excel far beyond the norm, and we all benefit from her ease in managing difficult situations.

██████████ a radio specialist at the Radio Policy Bureau of the Korea Communications Commission, stated:

While I was on an overseas training as a graduate student at Georgetown University in the United States, I studied closely and extensively with [the petitioner] in 2005 and 2006 when she was also [a] graduate student in the same master's program called Communication, Culture & Technology. Because of our similar background in broadcasting, I have been in touch with her in the past four years. During the past four years, I was impressed by [the petitioner's] contributions to Voice of America, the second largest broadcasting agency in the world.

Broadcasting has tremendous power in growth of democratic society through its unique function of dissemination of information. ██████████ has been contributing in diffusion of democracy and human rights during many critical time periods in history, such as . . . WWII and the "Cold War." Since [the] collapse of [the] Soviet Union as a representative of socialism, the role of China has been growing in politics, culture and economy.

. . . I see [the petitioner] as one of the best broadcast professionals that I have ever known. Especially in terms of her cultural background as a Chinese [*sic*], her extensive journalism experience, talented writing skills, and active participation in cultural diversity activities has been and will continue to be a great asset to the United States.

The petitioner submits Chinese-language printouts of several ██████████ stories, including the article described by ██████████ summaries. All of the articles date from a period of about four months between October 18, 2007 and February 21, 2008.

The director denied the petition on December 1, 2009, stating that the petitioner had not established sufficient past impact on the field of international broadcasting to justify the special benefit of a national interest waiver. On appeal, counsel argues that the director "[e]rred in determining that [the petitioner's] work is not in an area of substantial intrinsic merit." The director made no such determination, and therefore counsel's rebuttal requires no further discussion.

The director's decision was more ambiguous with respect to the national scope of the petitioner's work, sometimes disputing it and sometimes acknowledging at least the potential for national scope. More importantly for the purposes of this appellate decision, the director specifically stated: "The issue in this case is not whether the position in international broadcasting is in the national interest, but whether the beneficiary, to a greater extent than U.S. workers having the same qualifications, plays a significant role in that field." Therefore, any general arguments about international

broadcasting (as opposed to specific assertions about the petitioner) are redundant to the discussion of the appeal.

Turning to the petitioner's specific qualifications, counsel states: "There are no Americans who would have [the petitioner's] unique skill set and ability." This is a claim of fact, for which counsel provides no supporting documentation. The unsupported assertions of counsel do not constitute evidence. See *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Counsel then revisits a theme from the initial filing of the petition, specific to [REDACTED], stating: "As Voice of America is a government-funded agency, they are unable to hire foreign nationals. To require Voice of America to wait until [the petitioner's] labor certification is approved would result in a gap in service to the national and international viewing and listening audience." The flaw in this assertion is that the petitioner had already worked for [REDACTED] as a contractor. Counsel does not explain why this arrangement could not continue, and why "a gap in service" would inevitably result. Furthermore, this argument begs the question of why it is in the national interest to ensure that the petitioner, rather than another qualified journalist, fills the position at [REDACTED].

The petitioner resubmits previously submitted copies of her articles, and evidence that other news agencies have cited her reports. This evidence, in isolation, serves only to prove that the petitioner was a journalist in late 2007 and early 2008. It does not show that the petitioner's work was of a higher quality, or had a greater impact, than that of other international journalists. Likewise, the petitioner did not show that the references to her work in other reports is a particular mark of esteem rather than a routine identification of sources. By way of analogy, a reporter for a wire service such as the Associated Press is not automatically a recognized and influential journalist as an individual, yet the use of wire stories is common throughout the field of journalism.

While adjudicating the appeal, the AAO became aware of unrelated information, which the AAO conveyed to the petitioner in a notice dated November 10, 2011. That notice read, in part:

While your appeal has been pending, news reports have indicated that [REDACTED] would end radio and television broadcasts in Mandarin, and significantly cut its Mandarin-language staff. [REDACTED] itself has reported on these proposed cuts, publishing the Broadcasting Board of Governors' Fiscal Year 2012 Budget Request online at http://media.voanews.com/documents/FY_2012_BBG_Congressioal_Budget_Final_Web_Version2.pdf (excerpt added to record November 2, 2011). Page 111 of the budget request (page 113 of the online version) states: "The Agency will shift [REDACTED] from traditional radio and television broadcasting to a web-only platform utilizing new media technologies." The document further proposes a transfer of Mandarin-language radio broadcasts to Radio Free Asia, a separate entity under the authority of the Broadcasting Board of Governors. The proposal indicates that these changes would eliminate 45 jobs related to "Broadcasting to China." The changes would be effective on October 1, 2011, the first day of fiscal year 2012.

The AAO acknowledges that you seek a waiver of the job offer requirement. Nevertheless, an essential part of your claim of eligibility for the waiver is your assertion that you would work for [REDACTED]. The above information proposed significant job cuts in that service. Therefore, the AAO cannot consider the merits of your claim to serve the national interest through employment with the [REDACTED] until and unless you show that the [REDACTED] will, in fact, employ you in the capacity described. Please submit evidence directly from a [REDACTED] official with hiring authority to show that [REDACTED] still intends to employ you as a broadcaster in its Mandarin service. Your intention to seek continued employment there is not evidence of [REDACTED] intention to continue to employ you.

In the alternative, the AAO will consider comparable evidence from Radio Free Asia's Mandarin service, indicating that you would fill a role there that will be similar to your previously proposed employment at [REDACTED]. Because much of your original evidence specifically concerned [REDACTED] importance and reach, any new claim regarding Radio Free Asia must also include documentation comparing the Mandarin services of Radio Free Asia and [REDACTED].

The petitioner has responded to the notice, but the petitioner's response does not include any evidence of [REDACTED] intention to employ her in the future. This omission of requested evidence can, itself, warrant denial of a petition. *See* 8 C.F.R. § 103.2(b)(14).

Counsel incorrectly claims that "the AAO does not reference the news reports consulted." The AAO did cite a news source – [REDACTED] itself. Counsel asserts "there have been numerous reports that indicate that [REDACTED] broadcasting to China will likely continue," but acknowledges that "the news reports are speculative at best."

The above-quoted statements from counsel do not address the question of the petitioner's continued employment at [REDACTED]. Instead, counsel asserts that previous witnesses have attested to "the cross-over utility of [the petitioner's] broadcast journalism skills with a specialty in reporting on issues related to the United States and China," and that the petitioner "does not necessarily require a promise of employment from [REDACTED] for approval of her Petition. [The petitioner's] I-140 Petition, is based on her contributions to reporting at the [REDACTED], her expertise can be utilized by another employer and the petition can remain valid."

Counsel cites a 1995 letter from an official of what was then the Immigration and Naturalization Service, stating that an approved petition with a national interest waiver would remain valid if the alien changed employers. The letter describes a general principle, wherein an alien's contributions lie in the nature of his or her work rather than the identity of his or her employer. By quoting from the 1995 letter, counsel has attempted to minimize the petitioner's career shift. In the present instance, however, the lack of evidence of [REDACTED] continued intention to employ the petitioner is highly significant to the outcome of this proceeding.

Throughout the proceeding, counsel has emphasized not just the petitioner's journalistic skills and achievements, but also the importance of [REDACTED] as a vehicle for the petitioner's journalism. In the initial filing, the petitioner stated: "it would be contrary to the national interest to potentially deprive [REDACTED] of my continuing services." Even as late as the appeal (filed after USCIS records show the petitioner had left [REDACTED], counsel had urged USCIS not "[t]o require Voice of America to wait until [the petitioner's] labor certification is approved." From the beginning, the petitioner's work not just as a reporter, but as a reporter at [REDACTED], has been integral to the national interest waiver application. One cannot divorce [REDACTED] from the waiver claim without eviscerating the underlying arguments for the waiver.

The waiver claim rested not only on the petitioner's journalism, but on the international platform the [REDACTED] would provide. The AAO, in its 2011 notice, afforded the petitioner the opportunity to establish a job offer from another employer with similar international reach, but the petitioner provided no such evidence. Counsel claims that the petitioner's skills are such that, wherever she works, she will make a similar contribution to what she would have made at [REDACTED]. This claim lacks credibility, as it ignores the undeniable fact that media outlets have widely divergent areas of reach that differ in scope by many orders of magnitude. The claim is also flawed because it presumes the petitioner's continued employment in broadcast journalism. If the petitioner applies her skill set to a related but distinct occupation, such as public relations, then there is no longer any justification for the claim that she serves the national interest as an international broadcaster.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.